

Message Text

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ORIGIN OPIC-12

INFO OCT-01 EA-11 ISO-00 EB-11 COME-00 AID-20 L-03 /058 R

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DRAFTED BY: OPIC/GC: SFRANKLIN

APPROVED BY: E/IFD: MKENNEDY

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OPIC/GC: CHUNT

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EA/TB: JCLEMSTGIN

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R 262115Z APR 74

FM SECSTATE WASHDC

TO AMEMBASSY BANGKOK

UNCLAS STATE 085966

EO11652 NA

TAGS: EFIN, ID

SUBJ: CALTHAI

REF: A) BOORADY LETTER OF APRIL 5

B. BANGKOK 5954

C) BANGKOK 6376

F) BOORADY LETTER OF APRIL 15

1. APPRECIATE STATUS REPORT REF A.

2. ASSUMPTION THAT DOLS 10,000 TO BE PAID A&S STEEL PRIOR TO
PAYING OPIC IS CORRECT. WE WILL MEET WITH A&S DURING WEEK
OF MAY 6 RE OTHER CLAIMS AND INTEND TO SETTLE THESE AS WELL.
ASSUMING NO OTHER VALID CLAIMS EXIST HAVING PRIORITY TO
OPIC, WE BELIEVE CALTHAI SHOULD REPAY AS MUCH AS POSSIBLE
TO OPIC BEFORE LIQUIDATION INITIATED. THIS MAY DISCOURAGE
ADDITIONAL LITIGATION OVER CARCASS OF CALTHAI.

3. PLEASE ADVISE STATUS OF REPORT AND SUMMARY OF LEGAL WORK PERFORMED
BY WIPHAT ON THE LITIGATION.

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4. CALTHAI AUTHORIZED TO RETAIN WIPHAT FOR LIQUIDATION ON BASIS

OF FEES CITED. COPY OF OPIC'S STANDARD CONTRACT WITH FOREIGN COUNSEL FORWARDED AS REQUESTED IS SIMILAR TO CONTRACT USOM USED WITH KIRKWOOD, BUT SINCE OUR UNDERSTANDING IS THAT CALTHAI AND NOT OPIC OR USOM WILL RETIAN WIPHAT, MOST CLAUSES IN THE CONTRACT SEEM UNNECESSARY.

5. REQUEST BY WIPHAT FOR INDEMNIFICATION PRESENTS OTHER PROBLEMS. OPIC CONCERNED OVER OPEN ENDED LIABILITY UNDER SUCH INDEMNIFICATION. IN ADDITION, INDEMNITY MIGHT RESULT IN INDIRECT WAIVER BY OPIC TO THAI JURISDICTION ESPECIALLY IF WIPHAT'S ATTORNEY IS ELECTED A DIRECTOR OF CALTHAI. WE SHOULD THERFORE CONTINUE USING U.S. PERSONNEL AS DIRECTORS OF CALTHAI. IF WIPHAT'S ATTORNEY IS TO BE LIQUIDATOR, OPIC PREFERS TO USE COMMERCIAL BOND RATHER THAN OPIC INDEMNIFICATION. PLEASE ADVISE AVAILABILITY OF BOND IN THAILAND. PLEASE ALSO CLARIFY GENERALLY THE EXTENT TO WHICH LIQUIDATOR MIGHT BE PERSONALLY LIABLE IF NOT ALSO A DIRECTOR.

6. MATTER OF FEES CHARGED BY CHEMBANK WAS NOT CONSUMATED. CALTHAI DID NOT SIGN RELEASE, OPIC WILL AGAIN APPROACH CHEMBANK ON THE SUBJECT. CALTHAI SHOULD, HOWEVER, QUITCLAIM TO OPIC ANY RIGHTS IT MAY HAVE AGAINST CHEMBANK. OPIC AGREEABLE TO ADJUSTMENT IN CALTHAI BOOKS TO SHOW THAT INITIAL PAYMENT FOR TRANSFER WAS FOR THE ACCOUNT OF OPIC. AFTER ASSIGNMENT, CALTHAI MAY CHARGE THE BAHT 31,005 AGAINST THE AMOUNT OWED OPIC.

7. WE CONCUR THAT CALTHAI WAS IMPROPERLY CHARGED FOR THE FEES PAID KIRKWOOD. NOTE OF JAN. 18, 1971 FOR DOLS 9,603.84 WILL ACCORDINGLY BE CANCELLED AND RETURNED TO CALTHAI. APPROPRIATE ADJUSTMENT CANCELLING PRINCIPAL AND INEREST ON THE NOTE SHOULD BE ENTERED IN CALTHAI BOOKS.

8. ACTION NOTED IN PARAS 6 AND 7 HEREOF SHOULD BE FORMALIZED BY AN EXCHANGE OF LETTERS BETWEEN CALTHAI AND OPIC.
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